

THE LAW OFFICES OF MARTIN E. RESTITUYO, P.C.
1345 Avenue of the Americas, 33rd Floor, New York, New York 10105

Martin E. Restituyo
Tel: 212-729-7900
Fax: 212-729-7490
restituyo@restituyolaw.com

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VIA ECF Filing

Hon. Paul G. Gardephe
United States District Court Judge
Thurgood Marshall
United States Courthouse
40 Foley Square, Room 705
New York, NY 10007

Re: *Fitz v. Bethel Gourmet Food Corp.*, CA No. 17-cv-08919

Dear Judge Gardephe:

In accordance with Section 7.4 of the Stipulation and Order of Settlement submitted to the Court on April 19, 2018, [DKT #19] Plaintiffs move to file the Amended Complaint (Attached hereto as Exhibit 1).

As the Court is aware, on March 28, 2019, Plaintiffs submitted a letter [DKT #33] requesting a pre-motion conference prior to making a motion to file an amended complaint, for a preliminary injunction, and for the appointment of a receiver. Although, the Stipulation and Order of Settlement signed by all of the parties (including all additionally named defendants) specifically authorized the filing of an amended complaint, Plaintiffs sought the Court's permission prior to moving for injunctive relief and the appointment of a receiver.

In response to the Plaintiffs' request, on April 30, 2019, [DKT #34], the Court issued an Order requesting further briefing by the parties prior to scheduling said conference or making a determination with respect to the proposed motions. In accordance with Your Honor's Order, on May 6, 2019, Plaintiffs submitted a letter in further support of their March 28, 2019, letter [DKT #35]. Defendants failed to submit any opposition. The Court has yet to issue an order with respect to the requested relief.

Nevertheless, while the Court is in the process of evaluating whether to permit the Plaintiffs to file a motion for injunctive relief and/or for the appointment of a receiver, the audit against the parties has come to a halt. Part of the reason for the impasses is because several of the parties, in particular Yong M. Oh and 79 Deli NY Corp., who signed the settlement

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agreement, but have not been officially named as defendants in this action, are refusing to turn over their financial records until they are so named.

Since the Court Appointed Auditor cannot complete its review of Defendants finances without this additional information, we respectfully request that the Court please accept submission of the instant Amended Complaint, which was consented to in the Settlement Agreement and which has not been opposed to by the defending parties since.

Should the Court require additional information, please advise so that we may provide accordingly.

Respectfully submitted,



Martin E. Restituyo, Esq.